

BOARD OF APPEALS CASE NO. 5160

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BEFORE THE

APPLICANT: Coletta Springer

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ZONING HEARING EXAMINER

**REQUEST: Variance to allow an attached shed,
concrete patio and deck with walkway within the
60 foot front yard setback in an R2/COS District;
700 Farnham Place, Bel Air**

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OF HARFORD COUNTY

Hearing Advertised

HEARING DATE: September 12, 2001

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Aegis: 8/3//01 & 8/8/01

Record: 8/3/01 & 8/10/01

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Coletta Springer, is requesting a variance pursuant to Section 267-36B, Table V, of the Harford County Code, to allow an attached shed, concrete patio and deck with walkway to encroach in the recorded 60 foot front yard setback (54 feet proposed) in an R2/Urban Residential District/Conventional Development with Open Space (R2/COS).

The subject parcel is located at 700 Farnham Place, Bel Air, Maryland 21014 and is within the subdivision of Southampton. The parcel is more particularly identified among the land records on Tax map 41, Grid 4D, Parcel 473, Lot 45. The parcel consists of .076± acres and is presently zoned R2/COS. The parcel is entirely within the Third Election District.

Coletta Springer appeared and stated she is the owner of the subject parcel and Applicant herein. The Applicant began by stating that her property was very unique in that it fronts on two roads. Although her lot is on Farnham Place, it also backs up to Rte 543. She is remodeling the rear of her home and plans to construct a new deck that will be 3 feet deeper than the existing deck and it will wrap around the corner of the house. The patio will remain the same size and at the same location as the existing patio and the shed will be rebuilt as the same size as existing. The witness indicated that there is a mature stand of pine trees that completely block any view of the rear of her home from Rte 543. Exhibits 8B and 8F are illustrative of this condition. The witness did not think that her request would in any way result in any adverse impacts to neighboring properties.

Case No. 5160 – Coletta Springer

The Department of planning and Zoning found that the property was unique in that it fronts on two roads and is subject to two front yard setbacks although one of those is actually completely to the rear of the Applicant's home. The Department recommends approval of the subject request finding that no adverse impacts would result from approval.

There were no protestants who appeared in opposition to the subject request.

CONCLUSION:

The Applicant is requesting a variance pursuant to Section 267-36B, Table V, of the Harford County Code, to allow an attached shed, concrete patio and deck with walkway to encroach in the recorded 60 foot front yard setback (54 feet proposed) in an R2/Urban Residential District/Conventional Development with Open Space (R2/COS).

Harford County Code Section 267-11 permits variances and provides:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

The subject property is unique. It actually fronts on two roads and subjects the parcel to two front yard setbacks even though one of those front yards is located entirely to the rear of the property. The Applicant is seeking a minor variance of 6 feet to the front yard setback (which is located to the rear of her home). There will still be a 54 foot setback after construction and a mature stand of pine trees provide complete screening.

Case No. 5160 – Coletta Springer

The Maryland Court of Special Appeals has provided guidance in matters of variance requests and described a two-step analysis in determining whether such requests should be granted. According to the guidance provided by the Court, the variance process is a two-step sequential process:

1. The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is, in and of itself, unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to impact disproportionately upon the property. If this finding cannot be made, the process stops and the variance must be denied. If, however, the first step results in a supportive finding of uniqueness or unusualness, then the second step in the process is taken.
2. The second step is a demonstration whether unreasonable hardship (or practical difficulty) results from the disproportionate impact of the ordinance caused by the uniqueness.

In this case the property is certainly unique. The deck, patio and shed are much like those found elsewhere in this subdivision and within this zone. There is no other practical location for these structures and the variance results from the existence of two front yard setbacks only.

The Hearing Examiner is satisfied that no adverse impacts will result from approval of this request and recommends approval subject to the condition that the Applicant obtain any and all necessary permits and inspections.

Date OCTOBER 15, 2001

William F. Casey
Zoning Hearing Examiner